



**State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-2900 FAX (603) 271-2456



Rowell & Watson Co., Inc.  
237 Central Avenue  
Dover, NH 03820

**ADMINISTRATIVE FINE  
BY CONSENT**

**No. AF 02-032**

RE: Rowell & Watson Co., Inc  
30 Watson Lane  
Rollinsford, NH

**I. INTRODUCTION**

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division, and Rowell & Watson Company, Inc., pursuant to RSA 147-A:17-a. This Administrative Fine by Consent ("Agreement") is effective upon signature by all parties.

**II. PARTIES**

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its main office at 6 Hazen Drive, Concord, NH.
2. Rowell & Watson Company, Inc. ("Rowell & Watson") is a New Hampshire corporation that registered with the New Hampshire Secretary of State's Office on February 8, 1960 as Rowell & Watson Company, Inc., 547 Central Avenue, Dover, NH. Rowell & Watson has a facility located at 30 Watson Lane, Rollinsford, NH.

**III. BACKGROUND**

1. Pursuant to RSA 147-A, DES regulates the management and disposal of hazardous waste. Pursuant to RSA 147-A:3, the Commissioner of DES has adopted Env-Wm 100-1100 ("Hazardous Waste Rules") to implement this program.
2. Pursuant to RSA 147-A:17-a, the Commissioner is authorized to impose fines of up to \$2,000 per violation for violations of RSA 147-A or rules adopted pursuant thereto. Pursuant to this section, the Commissioner has adopted Env-C 612 to establish the schedule of fines for such violations.

3. Rowell & Watson is a hazardous waste generator that notified the United States Environmental Protection Agency ("EPA") of its activities through DES on March 6, 1992. EPA Identification Number NHD986473783 was assigned to Rowell & Watson's site located at 30 Watson Lane in Rollinsford, NH.
4. On August 17, 1998, DES personnel inspected Rowell & Watson for compliance with RSA 147-A and its implementing regulations, the New Hampshire Hazardous Waste Rules. As a result of the violations of the Hazardous Waste Rules observed during this inspection, DES issued Administrative Order No. WMD 99-01 ("Order") to Rowell & Watson on January 11, 1999. Based on the violations observed during the inspection listed above, DES believes that an administrative fine is appropriate in this case for the Class I violations.

#### IV. ALLEGATIONS, ADMINISTRATIVE FINES

1. Specifically, the Order cited Rowell & Watson for failing to obtain a permit for treatment, storage and disposal of hazardous waste (*i.e.*, waste pile South corner of Outside Storage Area), as required by RSA 147-A 4, I ("Violation 1"). Env-612.03(b) authorizes a fine of \$2,000 per disposal event, for a potential fine of \$2,000.
2. Specifically, the Order cited Rowell & Watson for failing to prevent exposure of humans or the environment to harmful quantities of hazardous waste or its constituents, as required by Env-Wm 506.01(b)(4) ("Violation 2"). Env-C 612.06(a) authorizes a fine of \$2,000 per event if resulting in a release of hazardous waste or substantial threat to human health or the environment, for a potential fine of \$2,000.
3. Specifically, the Order cited Rowell & Watson for failing to properly mark all drums containing hazardous waste. In particular, Rowell & Watson failed to mark one (1) 55-gallon drum of hazardous waste, identified in the Order as sample # L68016-5, with the beginning accumulation date, as required by Env-Wm 507.03(a)(1)a. ("Violation 3"). Env-C 612.06(k) authorizes a fine of \$250 for each container that is 55-gallons or greater, for a potential fine of \$250.
4. Specifically, the Order cited Rowell & Watson for failing to properly mark all drums containing hazardous waste. In particular, Rowell & Watson failed to mark one (1) 55-gallon container of hazardous waste, identified in the Order as sample # L68016-5, with the words "Hazardous Waste", the contents of the container, and EPA or state waste number, as required by Env-Wm 507.03(a)(1)b., c., and d. ("Violation 4"). Env-C 612.06(l) authorizes a fine of \$600 for each container that is 55-gallons or greater, for a potential fine of \$600.
5. Specifically, the Order cited Rowell & Watson for failing to conduct and document inspections of hazardous waste storage areas. In particular, Rowell & Watson failed to conduct and document inspections of the Main Building and Outside Hazardous Waste Storage areas, as required by Env-Wm 509.02(a)(1) ("Violation 5"). Env-C 612.07(a) authorizes a fine of \$1,000 per inspection per area, for a potential fine of \$2,000.

6. Specifically, the Order cited Rowell & Watson for failing to maintain a personnel training program, as required by Env-Wm 509.02(a)(2) ("Violation 6"). Env-C 612.07(b) authorizes a fine of \$1,750 per individual not trained for initial training, (*i.e.*, primary and secondary emergency coordinators) for a potential fine of \$3,500.
7. Specifically, the Order cited Rowell & Watson for failing to maintain adequate preparedness and prevention measures. In particular, Rowell & Watson failed to maintain adequate aisle space for containers, adequate fire extinguishers, and adequate spill equipment within 100 feet of the Outside Storage Area, as required by Env-Wm 509.02(a)(4) ("Violation 7"). Env-C 612.07(d) authorizes a fine of \$1,250 per requirement not met per storage area, for a potential fine of \$3,750.
8. Specifically, the Order cited Rowell & Watson for failing to have a contingency plan on-site, as required by Env-Wm 509.02(a)(5) ("Violation 8"). Env-C 612.07(e) authorizes a fine of \$2,000, for a potential fine of \$2,000.
9. Specifically, the Order cited Rowell & Watson for failing to store hazardous waste in containers in good condition and failing to store ignitable waste more than fifteen (15) meters from the property line. In particular, Rowell & Watson failed to store one (1) 55-gallon container of ignitable waste, identified in the Order as sample # L68016-3, more than fifteen (15) meters from the property line, as required by Env-Wm 509.02(a)(6) ("Violation 9"). Env-C 612.07(f) authorizes a fine of \$1,500 per container, for a potential fine of \$1,500.
10. Specifically, the Order cited Rowell & Watson for failing to classify a used oil/gasoline solvent mixture as a hazardous waste, as required by Env-Wm 807.04(a)(1) ("Violation 10"). Pursuant to Env-C 610, which references Env-Wm 807.04(a)(1), the Division proposes a fine of \$750.
11. Specifically, the Order cited Rowell & Watson for failing to store used oil, in a container which meets the U.S. Department of Transportation container specifications under 49 CFR 173, 7-1-89 edition, as required by Env-Wm 807.06(b)(1) ("Violation 11"). Pursuant to Env-C 610, which references Env-Wm 807.06(b)(1), the Division proposes a fine of \$750.
12. Specifically, the Order cited Rowell & Watson for failing to mark each container of used oil with the words "Used Oil for Recycle". In particular, Rowell & Watson failed to mark two (2) 55-gallon containers of used oil destined for recycle with the words "Used Oil for Recycle", as required by Env-Wm 807.06(b)(4) ("Violation 12"). Env-C 612.10 (a)(1), which references Env-Wm 807.06(b)(2), modified in August 2000 to Env-Wm 807.06(b)(4), authorizes a fine of \$100 for each container that is 55-gallons or greater, for a potential fine of \$200.
13. Specifically, the Order cited Rowell & Watson for failing to ensure containers of used oil destined for recycle are sealed at all times, unless oil is being added to or removed from the container. In particular, Rowell & Watson failed to ensure that two (2) 55-gallon containers of used oil destined for recycle are sealed at all times, as required by Env-Wm 807.06(b)(5) ("Violation 13"). Env 612.10(b)(1), which references Env-Wm 807.06 (b)(3) modified in

August 2000 to Env-Wm 807.06(b)(5), authorizes a fine of \$200 for each container that is 55-gallons or greater, for a potential fine of \$400.

14. Specifically, the Order cited Rowell & Watson for failing to conduct a used oil determination, as required by Env-Wm 807.06(b)(7) ("Violation 14"). Env 612.10(c) which references Env-Wm 807.06(b)(4), modified in August 2000 to Env 807.06(b)(7), authorizes a fine of \$750 per determination not made, for a potential fine of \$750.

#### V. PAYMENT, WAIVER OF HEARING

DES agrees to waive the fine associated with Violation 12 because it is not a Class I violation.

2. For purposes of settlement, the Division agrees to the following

- a. Violation 1-11 and 13-14 are Class I violations. DES has determined that based on information supplied by Rowell & Watson concerning recent changes at the facility, that a 20% small business reduction and a 20% reduction for other circumstances should be applied, for a total 40% reduction. DES is thus seeking a fine of \$12,150.

3. Payment under Paragraph V.2 shall be paid by certified check made payable to "Treasurer, State of New Hampshire" and shall be mailed to:

DES Legal Unit  
Attn: Michael Sclafani, Legal Assistant  
PO Box 95  
Concord, NH 03302-0095

4. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

5. By executing this Agreement, Rowell & Watson waives its right to a hearing on or any appeal of the administrative fines identified in Section IV Paragraph 1 through 14, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.

6. The effective date of this Agreement will be the date on which it is signed by an authorized representative of Rowell & Watson, and the Director of the Waste Management Division, and the Commissioner of DES.

7. Except as described in paragraph V.5 above, this Agreement shall not constitute, be construed as, or operate as (i) an admission or evidence of liability by Rowell & Watson, (ii) an admission by Rowell & Watson or evidence that it violated any law, rule, regulation, policy or regulatory interpretation; or (iii) a waiver of any defense Rowell & Watson might raise in any third party proceeding.

8. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

**ROWELL & WATSON COMPANY, INC.**

**COPY**  
Janice Kelly, President  
Duly Authorized

11-07-02  
Date

**DEPARTMENT OF ENVIRONMENTAL SERVICES**

**COPY**  
Philip J. O'Brien, Ph.D., Director  
Waste Management Division

11/13/02  
Date

**COPY**  
George Dana Bisbee, Acting Commissioner  
Department of Environmental Services

11/15/02  
Date